IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY SEVENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 15377 of 2004

Between:

T.Sreekanth, s/o T.Sankara Rao,
residing at 237/2RT, Vijayanagar Colony, Hyderabad.

..... PETITIONER

AND

1 The Assistant City Planner, Municipal Corporation of Hyderabad,
Circle No.5, Khairatabad, Hyderabad.
2 Municipal Corporation of Hyderabad, rep., by its Commissioner,
B.R.K.Bhavan, Tank Bund Road, Hyderabad.
3 The District Collector, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue appropriate writ, order or direction especially in the nature of writ of mandamus directing the respondents to consider the application dt.17-4-2004 for permission for construction on the premises bearing No.8-2-293/82/L/277-A situated at Sri Venkateswara Co.op.House Building Society, Road No.12, Banjara Hills, Hyderabad without insisting on the production of No Objection Certificate from the District Collector, Hyderabad.

For the Petitioner:MR.D.GNANESWARA NAIDU

For the Respondents 1 and 2: SRI GANTA RAMA RAO, SC

For the Respondent No.3: GP FOR REVENUE

The Court made the following :

Oral Order:

Petitioner claims to be the owner of plot No. 277-A in the sanctioned layout of Sri Venkateswara Cooperative House Building Society for A.P. Legislators Limited of Shaikpet Village having obtained a decree dt. 3-9-1990 in OS No.2526/90 on the file of IV

Assistant Judge, City Civil Court, Hyderabad against M. Vijayakumari. The said Vijayakumari made an application to the Municipal Corporation of Hyderabad and obtained permission for construction of a compound wall and room vide permit No.105/86 dt. 29-12-1995. After construction of compound wall and a room the premises was allotted house No.8-2-293/82/L/277-A and assessed for the property tax and he is paying property tax regularly. When the petitioner approached the 1st respondent seeking sanction of building permission, he was informed that unless the petitioner obtains No Objection Certificate from the 3rd respondent, the same will not be received and accepted. In view of the same, petitioner moved this Court by way of present writ petition.

This Court in ***DISTRICT COLLECTOR v. N.KRISHNA MOHAN*** categorically held that obtaining of No Objection Certificate from the Collector arises only when any law presupposes. Mere circular or an executive order informing the petitioners to obtain No Objection Certificate along with the application filed seeking sanction of permission to construct a building is not at all warranted. This Court while reiterating the same in ***HYDERABAD POTTERIES PRIVATE LIMITED v. DISTRICT COLLECTROR,***

HYDERABAD categorically held that application for grant of permission to construct a building is conferred upon the commissioner of Municipal Corporation to consider the same by taking into consideration the documents field by the applicant along with the application, including the permission already granted by the Corporation to the applicant earlier. The Commissioner shall not reject the application of the petitioner solely on the basis of an objection purported to have been raised by the Joint Collector. The objections, if any raised, will also be taken into consideration with the relevant material on record. The Commissioner shall not reject the application of the petitioner for grant of permission solely on the basis of entries said to have been made in TSLR or not accompanied by any No Objection Certificate from the revenue officials. The said view is also held by the Division Bench in W.A.No.1096 of 2001 dated 24-12-2001.

In view of the same, the 1st respondent is hereby directed to receive the application of the petitioner without insisting No Objection Certificate and consider the same and pass appropriate orders in accordance with law within four weeks from the date of receipt of a copy of this order.

With the direction as above, the writ petition is disposed of. No costs.

_____ A.GOPAL REDDY, J.

27-08-2004

Murthy/kmr

To

1 The Assistant City Planner, Municipal Corporation of Hyderabad,
Circle No.5, Khairatabad, Hyderabad.
2 Municipal Corporation of Hyderabad, Rep. by its Commissioner,
B.R.K. Bhavan, Tank Bund Road, Hyderabad.
3 The District Collector, Hyderabad.

4. 2CCs to the Govt., Pleader for Revenue, High Court Buildings, Hyderabad (OUT)

5. 2CD copies.